

PROPOSITION 105
HOUSE CONCURRENT RESOLUTION 2045
state trust land reform

ANALYSIS BY LEGISLATIVE COUNCIL

In 1910, the United States Congress passed the Arizona-New Mexico Enabling Act, allowing Arizona to become a state. The Enabling Act granted Arizona 10.9 million acres of land, referred to as "state trust land", to be held in trust for the benefit of the named beneficiaries, primarily the public schools, as well as other public institutions (colleges, hospitals, prisons, etc.). Both the Enabling Act and the Arizona Constitution provide that the state can lease or sell trust land, and the natural products (timber, minerals, etc.) of the land, to the "highest and best bidder" at advertised public auction and lands and products offered for sale must be appraised at and sold for not less than "true value".

Proposition 105 would amend the Arizona Constitution to:

1. Allow trust land in urban areas that was classified or eligible for designation as suitable for conservation prior to 2005 to be conveyed to a county, city or town without advertisement or auction upon payment of compensation. Any lease, right-of-way or other use in existence may continue.

2. Require the legislature to create a method for designating up to 400,000 acres of trust land outside of urban areas for conservation purposes and conveying those lands without advertisement, auction or compensation to the county in which the land is located. Any lease, right-of-way or other use in existence may continue.

3. Generally provide that the newspaper advertising period for the public auction of trust lands be reduced from 10 consecutive weeks to 5 consecutive weeks, while adding a new requirement that the auction notice be posted on the State Land Department web site for at least 35 days prior to the auction.

4. Allow the granting of public rights-of-way on trust land to governmental entities without advertisement or auction.

5. Allow trust land to be leased without auction.

6. Require that rights-of-way for public roadways originating before 1968 shall be granted without requiring further payment.

7. Generally provide that any trust land designated as conservation land must be held in trust by a governmental entity, be restricted against "development" and be managed in a manner consistent with "conservation", but not required to be accessible to the public unless and until conveyed out of the state land trust, as those terms are defined in this proposal.

8. Require that any commercial land use planning for trust lands in an urban area be prepared in consultation with the county, city or town where the land is located, according to generally applicable regulations that apply equally to similar private property in the jurisdiction. The land use plan, however, may designate a greater portion of trust land as suitable for conservation, and that land may be conveyed to the county, city or town, without advertisement or auction, for money or other forms of value if:

a. The disposition of the conservation land brings benefit to other trust land subject to the plan.

b. The value of all of the trust land subject to the plan is not diminished.

Section 4 of Proposition 105, relating to nonurban conservation lands, does not become effective if Proposition 106 is enacted by the voters at the November, 2006 election. Proposition 105 does not become fully effective unless the United States Congress amends the Arizona-New Mexico Enabling Act prior to 2009 to authorize the changes contained in this proposal.